

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5715 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMJIBHAI JERAMBHAI

Versus

JUNIOR ENGINEER GEB

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Appearance:

MR SH SANJANWALA for Petitioners

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/06/96

ORAL JUDGEMENT

Heard learned counsel for the petitioner. The grievance made by the petitioner is that the action of respondent No.1 of disconnecting the electric supply on the well of the petitioner situated on Survey No.314 of village Umarsadi, Taluka Pardi, District Bulsar, be declared illegal and arbitrary. The counsel for the petitioner contended that the aforesaid electric supply has been disconnected by respondent No.1 on the basis of

the direction given by the Mamlatdar concerned who has no authority whatsoever. The concerned Mamlatdar has been impleaded as a party in this writ petition, but no reply has been filed by him. From the reply filed by respondent No.1, it comes out that the Mamlatdar, under its order dated 13.4.83, directed the respondent No.1 that as the petitioner has installed an electric motor on the well which was standing on Survey No.285, which is a Government land, the electric connection may be discontinued. The contention of the learned counsel for the petitioner is that the well is situated on Survey No.314. It is a disputed question of fact which cannot be gone into by this Court sitting under Article 226 of the Constitution of India. The petitioner has filed this Special Civil Application and he has been protected by grant of interim relief. By grant of mandatory ad-interim directions, the disconnection of electric connection was ordered to be reconnected and this order still continues. In view of this relief, practically, this Special Civil Application stands disposed of at the stage of grant of interim relief and nothing else remains to be decided by this Court. In case the petitioner has taken electric connection on the well situated on Government land, then in that case, I fail to see how the action of concerned Mamlatdar for issuing directions to the respondent No.1, and the subsequent action of respondent No.1 of disconnecting the electric connection can be said to be illegal and arbitrary. The petitioner has no right to take such connection on the well situated on a Government land, and if it is true, then why this Court should interfere in the matter. But the petitioner has raised a dispute that the said well is situated on the land comprising of Survey No.314, which is his own land and this dispute cannot be resolved out by this Court sitting under Article 226 of the Constitution of India. Instead of filing this Special Civil Application, the petitioner should have approached to the Civil Court for a declaration. Be that it may. Now as the petitioner has been protected by interim relief by grant of mandatory relief and as the electric connection has been reconnected, the interest of justice will be met with by disposing this Special Civil Application with following directions.

2. The Mamlatdar of Pardi Taluka, Dist. Bulsar, shall decide, after hearing the petitioner, whether the well on which the electric connection was taken by the petitioner is on the Government land or not, i.e. on the land comprising Survey No.285 or on the land comprising Survey No.314. The petitioner is directed to appear before the Mamlatdar concerned on 19th August, 1996,

alongwith the certified copy of this order. The Mamlatdar shall decide this question within a period of one month thereafter. In case the Mamlatdar holds that the electric connection has been taken by the petitioner on the land comprising Survey No.285, then the petitioner will himself surrender the electric connection to the concerned officer of Gujarat State Electricity Board, Pardi. It is also made clear that till the matter is decided by the Mamlatdar, interim relief shall continue. Rule is made absolute in aforesaid terms.

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(sunil)